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EXTRAORDINARY

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PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 30th May, 1990:—

I

BILL No. XXIV OF 1990

A Bill to amend the Beedi and Cigar Workers (Conditions of Employment) Act, 1966.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Beedi and Cigar Workers (Conditions of Employment) Amendment Act, 1990.

Short
title
and com-
mence-
ment.

(2) It shall come into force in a State on such date as the State Government may, by notification in the Official Gazette, appoint; and different dates may be appointed by the State Government for different areas and for different provisions of this Act.

32 of 1966. 2. In section 2 of the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 (hereinafter referred to as the principal Act),—

Amend-
ment of
section 2.

(a) in clause (f),—

(i) in the opening paragraph after the word “establishment”, the words “or godown” shall be inserted;

(ii) in sub-clause (ii), after the words "or contractor", the words "or both" shall be inserted;

(b) after clause (h), the following clause shall be inserted, namely:—

“(hh) “godown” means any warehouse or other place, by whatever name called, used for the storage of—

(i) any article or substance required for any manufacturing process; or

(ii) beedi or cigar or both;”;

(c) in clause (i), the words “and includes a godown attached thereto” shall be added at the end.

Insertion
of new
section 7A.

3. After section 7 of the principal Act, the following section shall be inserted, namely:—

Inspector
not
to dis-
close the
source of
any
com-
plaint
etc.

“7A. (1) No Inspector shall disclose the source of any complaint made to him regarding the contravention of any of the provisions of this Act.

(2) No Inspector shall, while making an inspection under this Act in pursuance of a complaint received by him, disclose to the employer or contractor concerned or any of his representatives that the inspection is being made in pursuance of a complaint:

Provided that nothing in this section shall apply to any case in which the person who has made the complaint has consented to disclose his name.”.

Amend-
ment of
section
14.

4. In section 14 of the principal Act, in sub-section (1), for the word “fifty”, the word “thirty” shall be substituted.

Amend-
ment of
section
18.

5. In section 18 of the principal Act, after sub-section (2), the following *Explanation* shall be inserted, namely:—

“*Explanation.*—Where an employee had not worked on any day of the week immediately preceding the week in which the overtime work has been done, any week preceding such week in which he had actually worked shall be taken into account in calculating the overtime rate for the purposes of this sub-section.”.

Amend-
ment of
section
21.

6. In section 21 of the principal Act, to sub-section (1), the following proviso shall be added, namely:—

“Provided that a copy of every such notice shall be sent to the Inspector having jurisdiction over the industrial premises within two weeks from the date on which such notice is exhibited in the industrial premises.”

7. In section 31 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

Amend-
ment of
section
31.

5 of 1908.

“(2A) The appellate authority shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:—

(a) enforcing the attendance of any person and examining him on oath; and

(b) compelling the production of documents and material objects.”.

8. In section 32 of the principal Act, for the words “three months” and “five hundred rupees”, the words “six months” and “five thousand rupees” shall, respectively, be substituted.

Amend-
ment of
section
32.

9. In section 39 of the principal Act, in sub-section (2), for the portion beginning with the words “shall be settled” and ending with the words “specify in this behalf”, the following shall be substituted, namely:—

Amend-
ment of
section 39.

“shall be referred for settlement within such time and by such authority as the State Government may, by rules, specify in this behalf and such rules may also provide for the summary manner in which such dispute shall be settled”.

10. In section 44 of the principal Act, in sub-section (2), in clause (w), for the words “authority by which and the manner in which a dispute as to the issue of raw materials shall be settled”, the words “the time within which a dispute specified in sub-section (2) of section 39 shall be referred for settlement, the authority by which and the summary manner in which such dispute shall be settled” shall be substituted.

Amend-
ment of
section
44.

STATEMENT OF OBJECTS AND REASONS

The Beedi and Cigar Workers (Conditions of Employment) Act, 1966 has been enacted to provide for the welfare of the beedi and cigar workers and to regulate their conditions of employment, etc. The implementing agencies have experienced some administrative and practical difficulties in effectively implementing the provisions of the Act. With a view to overcoming these difficulties, it is proposed to amend the Act.

2. The Bill, *inter alia*, seeks to make the following amendments in the Act, namely:—

(i) to extend the coverage of the Act to the employees working in godowns and warehouses and also those who are working with the permission of or under agreement with both the employer and the contractor;

(ii) to make the provision regarding calculation of overtime wages of the workers employed on piece-rate basis more clear and unambiguous;

(iii) to confer on the appellate authority the powers of civil court for the purposes of compelling attendance of witnesses and compulsory production of records;

(iv) to make the penal provisions more stringent; and

(v) to empower the State Government to prescribe the time limit within which a dispute between an employer and employee relating to the issue of raw materials by the employer to the employee, payment of wages for the beedi and cigar or both rejected by the employer, etc., shall be referred for settlement.

3. India has ratified the Labour Inspection Convention No. 81 of the I.L.O. Accordingly, the Bill also seeks to introduce a provision that Labour Inspectors shall treat as absolutely confidential the source of any complaint regarding the breach of any provision of the Act.

4. The Bill seeks to achieve the above objects.

RAM VILAS PASWAN.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill seeks to amend clause (w) of sub-section (2) of section 44 of the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 to empower the State Government to make rules to specify the time limit within which a dispute under section 39 of the said Act shall be referred to the prescribed authority.

2. The above delegation pertains to matter of procedure, as such, the delegation of legislative power involved is of a normal character.

II

BILL No. XXVIII of 1990

A Bill to make provisions for the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry and to provide for matters connected therewith or incidental thereto.

Enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

Short title,
extent
and
commen-
cement.

1. (1) This Act may be called the Participation of Workers in Management Act, 1990.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, after giving not less than three months' notice of its intention so to do, by notification, appoint and different dates may be appointed for different provisions of this Act and for different classes of industrial establishments.

Defini-
tions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means,—

(i) in relation to an industrial establishment—

(1) in respect of which the appropriate Government under the Industrial Disputes Act, 1947, is the Central Government,

(2) carried on by a company in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government,

(3) owned by a body corporate having industrial establishments in more than one State,

the Central Government, and

(ii) in relation to any other industrial establishment, the Government of the State in which that other establishment is situate;

(b) "Board of Management", by whatever name called, means a body which is entitled to exercise all or any of such powers and to do all or any of such acts and things as the body corporate is authorised, by law under which it is incorporated, to exercise and do in relation to the industrial establishment or establishments owned by it;

(c) "Council" means a Shop Floor Council or an Establishment Council constituted under section 4;

(d) "notification" means a notification published in the Official Gazette;

(e) "other worker" means a worker other than a workman;

(f) "prescribed" means prescribed by rules made by the appropriate Government;

(g) "Scheme" means a scheme framed under section 3;

(h) "shop floor" means a unit of an industrial establishment where any activity severable from other activities is carried out at a single place or contiguous places;

(i) "worker" means any person employed in any industrial establishment to do any manual, unskilled, skilled, technical, operational, clerical, supervisory, managerial or administrative work for hire or reward, whether the terms of employment be express or implied, but does not include any such person—

(i) who is subject to the Air Force Act, 1950, or the Army Act, 1950, or the Navy Act, 1957; or

(ii) who is employed in the police service or as an officer or other employee of a prison;

(j) "workman" means any worker but does not include any such worker—

(i) who is employed mainly in a managerial or administrative capacity, or

(ii) who, being employed in a supervisory or administrative capacity, draws wages exceeding rupees one thousand six hundred per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature;

(k) words and expressions used but not defined in this Act and defined in the Industrial Disputes Act, 1947 shall have the meanings respectively assigned to them in that Act.

14 of 1947.

Participa-
tion of
workers
in Manage-
ment
Schemes.

3. The Central Government may, by notification, frame one or more schemes for giving effect to the provisions of this Act.

Consti-
tution of
Councils.

4. (1) There shall be constituted in every industrial establishment one or more Councils at the shop floor level and a Council at the establishment level in accordance with the provisions of the Scheme.

(2) Notwithstanding anything contained in sub-section (1), Councils at the shop floor level shall not be constituted in an industrial establishment having only one shop floor.

(3) Each Council at the shop floor level (hereinafter in this Act referred to as the "Shop Floor Council") and Council at the establishment level (hereinafter in this Act referred to as the "Establishment Council") shall consist of equal number of persons to represent the employer and the workmen.

(4) The appropriate Government shall, in consultation with the employer and after taking into account the following factors, namely:—

(a) total number of workmen in the shop floor or industrial establishment;

(b) total number of representatives of the employer including the other workers in the shop floor or establishment;

(c) the number of levels of authority in the shop floor or establishment;

(d) the number of shop floors in an establishment; and

(e) such other factors as may be specified in the Scheme,

~~determine~~ the number of persons who shall represent the employer and the workmen in a Council.

(5) The persons to represent the employer shall be nominated by the employer in such manner as may be specified in the Scheme.

(6) The persons to represent the workmen shall be elected by, and ~~from amongst~~, the workmen of the industrial establishment, by secret ballot or nominated by the registered Trade Unions, in accordance with the Scheme;

Provided that a person representing the workmen shall cease to be a member of the Council when he ceases to be a workman in that industrial establishment and the vacancy so caused shall be filled in such manner as may be specified in the Scheme.

(7) The Chairperson of each Shop Floor Council and Establishment Council shall be chosen by, and from amongst, the members thereof.

(8) The term of office of the members of each Council shall be three years from the date of the constitution of the Council.

(9) The procedure to be followed in the discharge of their functions by, and the manner of filling shall be such as may be specified in the other members of the Councils shall be such as may be specified in the Scheme.

(10) The Shop Floor Councils and Establishment Council shall meet as and when necessary but not less than four meetings of a Council shall be held every year.

(11) Every Council shall conduct its business in such manner as may be specified in the Scheme:

Provided that in a case where a matter under consideration is beyond the jurisdiction of—

(a) a Shop Floor Council, the said matter shall be referred to the Establishment Council;

(b) an Establishment Council in relation to a body corporate, the said matter shall be referred to the Board of Management:

Provided further that in a case where the representatives of the employer and the representatives of workmen fail to agree on any matter, such matter shall be referred to the employer for decision.

5. (1) A Shop Floor Council shall exercise such powers and perform such functions as it may deem necessary in relation to the matters specified in Schedule I.

Powers
and
functions
of
Councils.

(2) An Establishment Council shall exercise such powers and perform such functions as it may deem necessary in relation to the matters specified in Schedule II:

Provided that where no Shop Floor Council is constituted, the Establishment Council shall exercise such powers and perform such functions as it may deem necessary in relation to the matters specified in Schedule I also.

6. (1) Notwithstanding anything contained in any other law for the time being in force, the Board of Management of every body corporate owning an industrial establishment or establishments shall include persons to represent workmen and other workers employed in that establishment or those establishments and the persons representing workmen shall constitute thirteen per cent. and the persons representing other workers shall constitute twelve per cent. of the total strength of such Board of Management:

Board of
Management.

Provided that in case of a fraction of a number, such number shall be rounded off to the nearest whole number and, for this purpose, where such fraction is one-half or more, it shall be increased by a whole number and if such fraction is less than one-half, it shall be ignored:

Provided further that where the total strength of the Board of Management is not sufficient for giving representation to any workman, the Board of Management shall include at least one such person.

(2) The persons to represent the other workers shall be elected by, and from amongst, the other workers of the industrial establishment or establishments, by secret ballot, in accordance with the Scheme.

(3) The persons to represent the workmen shall be elected by, and from amongst, the workmen of the industrial establishment or establishments, by secret ballot, or nominated by the registered Trade Unions, in accordance with the Scheme.

(4) The term of office of the representatives of the workers shall be three years from the constitution of the Board of Management:

Provided that a person representing the workmen or, as the case may be, other workers shall cease to be a representative on the Board of Management when he ceases to be a workman or other worker in an industrial establishment owned by the body corporate and the vacancy so caused shall be filled in such manner as may be specified in the Scheme.

(5) For the removal of doubts, it is hereby declared that every representative of the workers shall exercise all the powers and discharge all the functions of a member of the Board of Management and shall be entitled to vote.

(6) The Board of Management shall review the functioning of each Shop Floor Council and the Establishment Council of the industrial establishment or establishments concerned.

Penalty.

7. If any person contravenes any of the provisions of this Act or the Scheme made thereunder, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to twenty thousand rupees, or with both.

Offences
by
companies.

8. (1) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

9. No court shall take cognizance of any offence punishable under this Act save on a complaint made by or under the authority of the appropriate Government.

Cogni-
zance
of offences.

10. (1) The appropriate Government may, by notification, appoint such persons as it thinks fit, to be Inspectors for the purposes of this Act and may define the limits within which they shall exercise their jurisdiction.

Inspectors.

(2) An Inspector appointed under sub-section (1) may, for the purpose of ascertaining whether any of the provisions of this Act has been complied with,—

(a) require an employer to furnish such information as he may consider necessary;

(b) enter any establishment or any premises connected therewith at any reasonable time and with such assistance, if any, as he thinks fit, and require any one found in charge thereof to produce before him for examination any books, registers and other documents relating to the employment of persons;

(c) examine with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other person found in charge of the establishment or any premises connected therewith or any person whom the Inspector has reasonable cause to believe to be or to have been a worker in the establishment;

(d) make copies of, or take extracts from any book, register or other document maintained in relation to the establishment;

(e) exercise such other powers as may be prescribed.

(3) Every Inspector shall be deemed to be a public servant within 45 of 1860. the meaning of the Indian Penal Code.

(4) Any person required to produce any account, book, register or other document or to give information by an Inspector under sub-section (1) shall be legally bound to do so.

11. (1) The appropriate Government may constitute a Monitoring Committee to review and advise the said Government upon matters arising out of the administration of this Act, any Scheme or any rules made thereunder.

Monitoring
Commit-
tees.

(2) The members of the Monitoring Committee shall be appointed by the appropriate Government and shall be of such number and chosen in such manner as may be prescribed:

Provided that the Monitoring Committee shall include an equal number of members representing—

(i) the appropriate Government,

(ii) the workers, and

(iii) the employers.

(3) The Chairperson of the Monitoring Committee shall be one of the members appointed to represent the appropriate Government, nominated in this behalf by the appropriate Government.

(4) The appropriate Government shall publish, by notification, the names of the members of the Monitoring Committee.

Power to exempt.

12. The appropriate Government may, by order in writing, exempt, subject to such conditions and restrictions as it may think fit to impose, any employer or class of employers from all or any of the provisions of this Act.

Effect of provisions of the Act inconsistent with other laws.

13. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

Power of appropriate Government to make rules.

14. (1) The appropriate Government may, by notification, make rules to carry out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(i) the powers which an Inspector may exercise under clause (e) of sub-section (2) of section 10;

(ii) the number of the members of the Monitoring Committee and the manner in which they shall be chosen under sub-section (2) of section 11;

(iii) any other matter which has to be, or may be, prescribed under this Act.

Laying of rules and Schemes.

15. (1) Every rule and every Scheme made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or the Scheme, or both Houses agree that the rule or the Scheme should not be made, the rule or the Scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or Scheme.

(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature, where it consists of two Houses, or where such Legislature consists of one House, before that House.

Amendment of Act 14 of 1947.

16. Section 3 of the Industrial Disputes Act, 1947 shall be omitted.

SCHEDULE I

(See section 5)

1. Production facilities.
2. Storage facilities in a shop.
3. Material economy.
4. Operational problems.
5. Wastage control.
6. Hazards and safety problems.
7. Quality improvement.
8. Cleanliness.
9. Monthly targets and production schedules.
10. Cost reduction programmes.
11. Formulation and implementation of work system.
12. Design group working.
13. Welfare measures related particularly to the shop

SCHEDULE II

(See section 5)

Operational areas

1. Evolution of productivity schemes taking into account the local conditions.
2. Planning, implementation, fulfilment and review of monthly targets and schedules.
3. Material supply and its shortfall.
4. Storage and inventories.
5. House keeping.
6. Improvements in productivity in general and in critical areas in particular.
7. Encouragement to and consideration of suggestions.
8. Quality and technological improvements.
9. Machine utilisation knowledge and development of new products.
10. Operational performance figures.
11. Matters not resolved at the shop-level or concerning more than one shop.
12. Review of the working of the shop-level bodies.

Economic and financial areas

1. Profit and loss statement and balance-sheet.
2. Review of operating expenses, financial results and cost of sales.
3. Plant performance in financial terms, labour and managerial costs, market conditions, etc.

Personnel matter

1. Absenteeism.
2. Special problems of women workers.
3. Initiation and supervision of workers' training programmes.
4. Administration of social security schemes.

Welfare areas

1. Operational details.
2. Implementation of welfare schemes, medical benefits and transport facilities.
3. Safety measures.
4. Sports and games.
5. Housing.
6. Township administration, canteen, etc.
7. Control of gambling, drinking and indebtedness.

Environmental areas

1. Extension activities and community development projects.
2. Pollution control.

STATEMENT OF OBJECTS AND REASONS

Article 43A of the Constitution requires the State to take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry. So far, all the schemes pertaining to participation of workers in management have been non-statutory. At present, there is no central law on the subject. The non-statutory schemes have not been able to provide an effective frame-work for a meaningful participation of workers in management at all levels.

2. This Bill, *inter alia*, intends to—

(i) provide for specific and meaningful participation of workers in management at shop floor level, establishment level and board of management level in industrial establishments;

(ii) provide for formulation of one or more schemes to specify detailed criteria, such as, the manner of representation of workmen on the shop floor and establishment level councils, and of workmen and other workers on the Board of Management nomination of representatives of the employers on the shop floor and establishment level councils, procedure to be followed in the discharge of the functions by a council, the manner of filling the vacancies amongst the chairpersons and members in respect of shop floor and industrial establishment councils and conducting their business, etc;

(iii) provide for the principle of secret ballot for determining the representation of workmen on the shop floor and establishment level councils and of workmen and other workers on the Board of Management;

(iv) provide for rules to specify the power which an Inspector may exercise, the number of members of the Monitoring Committee and the manner in which they shall be chosen, etc.

3. The Bill seeks to achieve the above objects.

RAM VILAS PASWAN.

FINANCIAL MEMORANDUM

Under the Participation of Workers in Management Bill, 1990, the Central Government is the appropriate Government for the administration of its provisions in relation to an industrial establishment in respect of which the appropriate Government under the Industrial Disputes Act, 1947 is the Central Government. The Central Government is also the appropriate Government in relation to an industrial establishment carried on by a company in which not less than fifty-one per cent. of the paid up share capital is held by the Central Government and in relation to an industrial establishment owned by a body corporate having industrial establishments in more than one State. For other establishments, the State Government in which such other establishments are situated is the appropriate Government. Clause 10(1) providing for appointment of Inspectors and clause 11 providing for constitution of Monitoring Committee involve expenditure on the part of the Central Government as the appropriate Government.

2. The Participation of Workers in Management Bill, 1990 is an enabling legislation and is to be applied at all the three levels, that is, shop floor level, industrial establishment level and board of management level. The Central Government is the appropriate Government in respect of large number of industrial establishments as defined in the Industrial Disputes Act, 1947. Hence, for the present, it is proposed to appoint the existing officers of Central Industrial Relations Machinery as Inspectors under the Act. Therefore, no additional expenditure is proposed to be incurred under this item.

3. The Monitoring Committee may meet once in a year or at any other suitable interval as may be specified and may undertake tours to different parts of the country to review and advise the State Governments upon matters arising out of the administration of this Act, any Scheme or any rules made thereunder. It is not possible at this stage to quantify the recurring expenditure likely to be incurred in connection with the meetings of the Committee. A token provision of Rs. 5.00 lakhs for the financial year 1990-91 has been made.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 empowers the Central Government to frame one or more schemes by notification for giving effect to the provisions of this Act. Since a scheme will have to specify, among other matters, the manner of representation of workmen on the shop floor and industrial establishment level councils and of workmen and other workers on the Board of Management, nomination of the representatives of the employers on the shop floor and industrial establishment level councils and also will lay down the procedure to be followed in the discharge of the functions of the members at all levels and the manners of filling vacancies among chairpersons and members, the framing of a scheme will, therefore, require consultation with and advice of the relevant Ministries or Departments of the Central Government, State Governments and Union territories. It would, therefore, be convenient to delegate these powers to the Central Government.

2. Clause 14 empowers the appropriate Government to make rules, by notification, to carry out the various provisions of this Act on matters relating to the powers of Inspectors, manner in which the members of the Monitoring Committee will be chosen and any other matter which may be prescribed under the Act. Since the rules to be made under this clause would be of a very detailed nature and would be made after thorough examination, it would be convenient to delegate this power to the appropriate Government.

3. The matters in respect of which the rules may be made under clause 13 are essentially matters of details and procedure. The delegation of legislative powers is thus of a normal character.

III

BILL No. XXVI OF 1990

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

Short
title
and
com-
mence-
ment.

1. (1) This Act may be called the Constitution (Seventieth Amendment) Act, 1990.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
article
324.

2. In article 324 of the Constitution,—

(a) in clause (2), for the words “, subject to the provisions of any law made in that behalf by Parliament, be made by the President”, the following shall be substituted, namely:—

“be made by the President after consultation with the Chairman of the Council of States, the Speaker of the House of the People and the Leader of the Opposition in the House of the People recognised as such under any law made in this behalf by Parliament and if there is no such Leader of the Opposition, the leader of the party in opposition to the Government having the greatest numerical strength in that House:

Provided that in the case of appointment of other Election Commissioners, the Chief Election Commissioner shall also be consulted.”;

(b) clause (6) shall be re-numbered as clause (10) and before clause (10), as so re-numbered, the following clauses shall be inserted, namely:—

“(6) The Chief Election Commissioner or other Election Commissioner shall not be eligible for further office under the Government of India or under the Government of any State or for the office of the Governor of a State or the Administrator of a Union territory after he has ceased to hold his office:

Provided that an Election Commissioner shall be eligible for appointment as the Chief Election Commissioner.

(7) The Election Commission shall have a separate secretarial staff.

(8) Parliament may by law regulate the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the Election Commission.

(9) Until provision is made by Parliament under clause (8), the President may, after consultation with the Election Commission, make rules regulating the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the Election Commission, and any rules so made shall have effect subject to the provisions of any law made under the said clause.”.

STATEMENT OF OBJECTS AND REASONS

The Committee on Electoral Reforms have made certain recommendations as to the manner of appointment of the Chief Election Commissioner and other Election Commissioners. Government have considered their recommendations and have decided that those appointments may be made in consultation with the Chairman of the Rajya Sabha, the Speaker of the Lok Sabha and the Leader of the Opposition in the Lok Sabha and where no such leader is available, the leader of the largest group in that House. In the case of appointment of other Election Commissioners, the Chief Election Commissioner should also be consulted.

2. There has been a demand both from within and outside the Parliament for providing an independent Secretariat to the Election Commission for effectively conducting the elections. The Committee on Electoral Reforms have also emphasised the need for such a Secretariat. Accordingly, the Government proposes this Bill.

DINESH GOSWAMI.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for separate secretarial staff to the Election Commission. This would involve only change in the mode of appointment and as such no expenditure, whether recurring or non-recurring would be involved from the Consolidated Fund of India.

IV

BILL No. XXVII OF 1990

A Bill further to amend the Constitution of India.

Enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

Short
title
and
com-
mence-
ment.

1. (1) This Act may be called the Constitution (Seventy-first Amendment) Act, 1990.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
article 81.

2. In article 81 of the Constitution, in the proviso to clause (3), for the words and figures "be construed as a reference to the 1971 census" the following shall be substituted, namely:—

"be construed,—

(i) for the purposes of sub-clause (a) of clause (2) and the proviso to that clause, as a reference to the 1971 census; and

(ii) for the purposes of sub-clause (b) of clause (2), as a reference to the 1981 census."

Amend-
ment of
article 82.

3. In article 82 of the Constitution, in the third proviso, for the words "readjust the allocation of seats in the House of the People to the

States and the division of each State into territorial constituencies under this article", the following shall be substituted, namely:—

"readjust—

(i) the allocation of seats in the House of the People to the States as readjusted on the basis of the 1971 census; and

(ii) the division of each State into territorial constituencies as may be readjusted on the basis of the 1981 census, under this article".

4. In article 170 of the Constitution,—

(a) in clause (2), in the proviso to the *Explanation*, for the figures "1971", the figures "1981" shall be substituted;

Amend-
ment of
article
170.

(b) in the third proviso to clause (3), for the words "readjust the total number of seats in the Legislative Assembly of each State and the division of such State into territorial constituencies under this clause", the following shall be substituted, namely:—

"readjust—

(i) the total number of seats in the Legislative Assembly of each State as readjusted on the basis of the 1971 census;

(ii) the division of such State into territorial constituencies as may be readjusted on the basis of the 1981 census,

under this clause".

5. In article 327 of the Constitution, after the words "delimitation of constituencies", the words "including rotation of constituencies reserved for the Scheduled Castes" shall be inserted.

Amend-
ment of
article
327.

STATEMENT OF OBJECTS AND REASONS

The Members in both the Houses had been raising from time to time, a demand for the delimitation of constituencies. The Government have also been receiving representations and suggestions for such delimitation from various other quarters. Hence, the matter was referred to the Committee appointed by the Central Government to go deep into the matter of Electoral Reforms. The Committee has examined the question of increasing the total number of seats in the House of the People and the Legislative Assemblies of the States, the rotation of seats reserved for the Scheduled Castes and Scheduled Tribes and delimitation of constituencies. After a careful study and discussion, they have recommended that a fresh delimitation, on the basis of 1981 census, may be undertaken, but such delimitation should not affect the total number of seats allotted to various States on the basis of 1971 census. They have also recommended that seats reserved for Scheduled Castes may also be rotated on the basis of their population in the constituencies. These recommendations require amendments to the Constitution as at present there is a Constitutional bar not only in regard to the increase in the total number of seats but also with regard to delimitation of constituencies. The Government having accepted the recommendation of the Committee now propose to amend the relevant articles of the Constitution.

Hence this Bill.

DINESH GOSWAMI.

V

BILL NO. XXV OF 1990

A Bill further to amend the Representation of the People Act, 1950 and the Representation of the People Act, 1951.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Representation of the People (Amendment) Act, 1990.

Short title
and com-
mence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

CHAPTER II

AMENDMENT OF THE REPRESENTATION OF THE PEOPLE ACT, 1950

43 of 1950.

2. In section 32 of the Representation of the People Act, 1950, in subsection (1), for the words "with fine which may extend to five hundred rupees", the words "with imprisonment for a term which shall not be less than three months but which may extend to two years and with fine" shall be substituted.

Amend-
ment of
section
32.

CHAPTER III

AMENDMENT OF THE REPRESENTATION OF THE PEOPLE ACT, 1951

Amend-
ment of
section 1.

3. In section 1 of the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), for the words "Representation of the People", the words "Elections to Parliament and State Legislatures" shall be substituted.

43 of 1951.

Amend-
ment of
section 2.

4. In section 2 of the principal Act,—

(a) clause (f) shall be omitted;

(b) clause (i) shall be renumbered as clause (j) and before clause (j) as so renumbered, the following clause shall be inserted, namely:—

“(i) “recognised political party” means a political party recognised by the Election Commission under the Election Symbols (Reservation and Allotment) Order, 1968;”.

Amend-
ment of
section 8.

5. In section 8 of the principal Act, in sub-section (1),—

(a) in clause (i), the word “or” shall be added at the end;

(b) after clause (i), the following clause shall be inserted, namely:—

“(j) section 2 (offence of insulting the Indian National Flag or the Constitution of India) or section 3 (offence of preventing singing of National Anthem) of the Prevention of Insults to National Honour Act, 1971,”.

69 of 1971.

Insertion
of new
section
20B.

6. After section 20A of the principal Act, the following section shall be inserted, namely:—

Observers.

‘20B. (1) The Election Commission may nominate an Observer who shall be an officer of Government to watch the conduct of election or elections in a constituency or a group of constituencies and to perform such other functions as may be entrusted to him by the Election Commission.

(2) The Observer nominated under sub-section (1) shall have the power to direct the returning officer for the constituency or for any of the constituencies for which he has been nominated, to stop the counting of votes at any time before the declaration of the result or not to declare the result if in the opinion of the Observer booth capturing has taken place at a large number of polling stations or at places fixed for the poll or counting of votes or any ballot papers used at a polling station or at a place fixed for the poll are unlawfully taken out of the custody of the returning officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with to such an extent that the result of the poll at that polling station or place cannot be ascertained.

(3) Where an Observer has directed the returning officer under this section to stop counting of votes or not to declare the result, the Observer shall forthwith report the matter to the Election Commission and thereupon the Election Commission shall, after taking all

material circumstances into account, issue appropriate directions under section 58A or section 64A or section 66.

Explanation.—For the purposes of sub-section (2) and sub-section (3), "Observer" shall include a Regional Commissioner or any such officer of the Election Commission as has been assigned under this section the duty of watching the conduct of election or election from a constituency unless he deposits or causes to be deposited.

7. Part IVA of the principal Act shall be omitted.

Omission
of Part
IVA.

8. In section 33 of the principal Act,—

Amend-
ment of
section 33.

(a) in sub-section (6), in the proviso, for the words "the same constituency", the words "a constituency" shall be substituted;

(b) after sub-section (6), the following sub-section shall be inserted, namely:—

"(7) Notwithstanding anything contained in sub-section (6) or in any other provision of this Act, a person shall not be nominated as a candidate for election,—

(a) in the case of a general election to the House of the People (whether or not held simultaneously from all parliamentary constituencies), from more than one parliamentary constituency;

(b) in the case of a general election to the Legislative Assembly of a State (whether or not held simultaneously from all assembly constituencies), from more than one assembly constituency in the State;

(c) in the case of a biennial election to the Legislative Council of a State having such Council, from more than one council constituency in the State;

(d) in the case of bye-elections to the House of the People from two or more parliamentary constituencies which are held simultaneously, from more than one such parliamentary constituency;

(e) in the case of bye-elections to the Legislative Assembly of a State from two or more assembly constituencies which are held simultaneously, from more than one such assembly constituency;

(f) in the case of bye-elections to the Council of States for filling two or more seats allotted to a State, which are held simultaneously, for filling more than one such seat;

(g) in the case of bye-elections to the Legislative Council of a State having such Council from two or more council constituencies which are held simultaneously, from more than one such council constituency.

Explanation.—For the purposes of this sub-section, two or more bye-elections shall be deemed to be held simultaneously where the notifications calling such bye-elections are issued by the Election Commission under sections 147, 149, 150 or, as the case may be, 151 on the same date.”.

Amend-
ment of
section 34.

9. In section 34 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) A candidate shall not be deemed to be duly nominated for election from a constituency unless he deposits or causes to be deposited,—

(a) in the case of an election from a Parliamentary constituency,—

(i) where the candidate is set up by a recognised political party, a sum of one thousand rupees or where such candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of five hundred rupees;

(ii) where the candidate is set up by any party other than a recognised political party or is an independent, a sum of five thousand rupees or where such candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of two thousand and five hundred rupees; and

(b) in the case of an election from an Assembly or Council constituency,—

(i) where the candidate is set up by a recognised political party, a sum of five hundred rupees or where such candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of two hundred and fifty rupees;

(ii) where the candidate is set up by any party other than a recognised political party or is an independent, a sum of two thousand and five hundred rupees or where such candidate is a member of a Scheduled Caste or Scheduled Tribes, a sum of one thousand two hundred and fifty rupees:

Provided that where a candidate has been nominated by more than one nomination paper for election in a constituency, not more than one deposit shall be required of him under this sub-section.”.

Substitu-
tion of
new section
for sec-
tion 520.

10. For section 52 of the principal Act, the following section shall be substituted, namely:—

Death of
candidate
before the
poll.

“52. If a candidate, set up by a recognised political party,—

(a) dies at any time after 11 A.M. on the last date for making nominations and his nomination is found valid on scrutiny under section 36; or

(b) whose nomination has been found valid on scrutiny under section 36 and who has not withdrawn his candidature under section 37 dies,

and in either case, a report of his death is received at any time before the publication of the list of contesting candidates under section 38; or

(c) dies as a contesting candidate and a report of his death is received before the commencement of the poll,

the returning officer shall, upon being satisfied about the fact of the death of the candidate, by order, countermand the poll and report the fact to the Election Commission and also to the appropriate authority and all proceedings with reference to the election shall be commenced anew in all respects as if for a new election;

Provided that no order for countermanding a poll should be made in case referred to in clause (a) except after the scrutiny of all the nominations including the nomination of the deceased candidate:

Provided further that no further nomination shall be necessary in the case of a person who was a contesting candidate at the time of the countermanding of the poll:

Provided also that no person who has given a notice of withdrawal of his candidature under sub-section (1) of section 37 before the countermanding of the poll shall be ineligible for being nominated as a candidate for the election after such countermanding."

11. In section 58A of the principal Act, in sub-section (2),—

Amend-
ment of
section
58A.

(i) for the words, brackets and figure "The Election Commission shall, on the receipt of a report from the returning officer under sub-section (1)", occurring in the opening portion, the words, brackets, letters and figures "In every case referred to in clause (a) or clause (b) of sub-section (1), the Election Commission shall, on the receipt of a report from the returning officer under sub-section (1) or otherwise" shall be substituted;

(ii) in clause (b), after the words "affect the result of the election.", the words "declare that the poll in that constituency be void, appoint a day, and fix the hours, for taking fresh poll in that constituency and notify the date so appointed and hours so fixed in such manner as it may deem fit or" shall be inserted.

12. In section 77 of the principal Act,—

Amend-
ment of
section 77.

(a) in sub-section (1),—

(i) for the words "in connection with the election incurred or authorised by him or by his election agent between the date on which he has been nominated", the words "in connection with the conduct and management of the election, incurred or authorised by him or by his election agent between the date of the publication of the notification calling the election" shall be substituted;

(ii) *Explanation 1* and *Explanation 3* shall be omitted;

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The total of the said expenditure shall not exceed such amount as may be specified by the Election Commission before each general election for the purpose of constituting a new House of the People or before each general election for the purpose of constituting a new Legislative Assembly of a State.”.

Insertion
of new
Part VA.

13. After Part V of the principal Act, the following Part shall be inserted, namely:—

“PART VA

FREE SUPPLY OF CERTAIN MATERIAL TO CANDIDATES OF RECOGNISED POLITICAL PARTIES

Free
supply
of copies
of elec-
toral
rolls,
diesel,
petrol,
etc.

78A. (1) The Government shall, at any general election held for the purposes of constituting the House of the People or the Legislative Assembly of a State, supply, free of cost, to the candidates of recognised political parties such number of copies of the electoral roll, as finally published under the Representation of the People Act, 1950, such quantity of diesel or petrol for such number of vehicles and such other material as may be prescribed.

43 of 1950.

(2) The Government shall also pay to the candidates of recognised political parties such amount on account of hire charges for such number of microphones (including loudspeakers), as may be prescribed.

(3) The material referred to in sub-section (1) shall be supplied and the payment referred to in sub-section (2) shall be made,—

(i) subject to such conditions as may be imposed by the Central Government in consultation with the Election Commission with respect to the reduction of the maximum expenditure which may be incurred by the candidate under section 77; and

(ii) through such officers as may be specified by the Election Commission who shall act in accordance with such general or special directions as may be given by the Election Commission.

Supply
of identi-
ty slips
of electors
to
candi-
dates.

78B. (1) The Election Commission shall, at any time between the date of publication of the notification calling the election and the date on which the poll is to be taken, supply or cause to be supplied identity slips of electors in the constituency concerned to the candidates set up by the recognised political parties.

(2) Where the Election Commission supplies the identity slips to the candidates under sub-section (1), the Central Government may, in consultation with the Election Commission, impose conditions with respect to the reduction of the maximum expenditure which may be incurred by the candidate under section 77.”.

14. In section 123 of the principal Act, in clause (7), the proviso shall be omitted.

Amendment of section 123.

15. After section 123 of the principal Act, the following Chapter shall be inserted, namely:—

Insertion of new Chapter II.

“CHAPTER II

ILLEGAL PRACTICES

124. No person shall, at any time between the date of publication of the notification calling the election and the date of the declaration of the result thereof (both dates inclusive), indulge, either directly or indirectly, for the furtherance of the prospects of a political party or candidate at that election, in the following practices, namely:—

Illegal practices.

(a) combining of official visit with work relating to the election or making use of official machinery or personnel in connection with any such work;

(b) using Government transport, including official aircrafts, vehicles, machinery and personnel in connection with any work relating to the election;

(c) restricting or monopolising the use of public places for holding election meetings or use of helipads for air flights in connection with any work relating to the election;

(d) restricting or monopolising the use of rest houses, dak bungalows or other Government accommodation or the use of such accommodation (including premises appertaining thereto) as a campaign office or for holding any public meeting for the purposes of the election propaganda;

(e) issuing of advertisements at the cost of the public exchequer in the newspapers and other media;

(f) using official mass media for partisan coverage of political news and publicity of achievements;

(g) announcing or sanctioning of any financial grants in any form or making payments out of discretionary funds;

(h) laying of foundation stones of projects or the inauguration of schemes of any kind or the making of any promises of construction of roads or the provision of any facilities;

(i) making of any *ad hoc* appointments in Government or public undertakings;

(j) entering any polling station or place of counting except in the capacity of a candidate, a voter or an agent of a candidate or as a person duly authorised in this behalf under this Act or the rules made thereunder;

(k) ordering transfer of any officers and staff referred to in section 28A in violation of the instructions of the Election Commission in that behalf.”.

Substitution of new sections for section 126.

16. For section 126 of the principal Act, the following sections shall be substituted, namely:—

Prohibition of public meetings during period of forty-eight hours ending with hour fixed for conclusion of poll.

126. (1) No person shall—

(a) convene, hold, attend, join or address any public meeting or procession in connection with an election; or

(b) display to the public any election matter by means of cinematograph, television or other similar apparatus; or

(c) propagate any election matter to the public by holding, or by arranging the holding of, any musical concert or any theatrical performance or any other entertainment or amusement with a view to attracting the members of the public thereto,

in any polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

(3) In this section, the expression “election matter” means any matter intended or calculated to influence or affect the result of an election.

Penalty for indulging in illegal practices.

126A. Any person who indulges in any practice specified in section 124, shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

Amendment of section 127.

17. In section 127 of the principal Act, in sub-section (1), for the words “three months or with fine which may extend to one thousand rupees”, the words “six months or with fine which may extend to two thousand rupees” shall be substituted.

Substitution of new section for section 133.

18. For section 133 of the principal Act, the following section shall be substituted, namely:—

"133. (1) If any person is guilty of any such corrupt practice as is specified in clause (5) of section 123 at or in connection with an election, he shall be punishable with imprisonment which may extend to three months and with fine.

(2) An offence punishable under sub-section (1) shall be cognizable."

Penalty for illegal hiring of procur-ing of convey-ance at elections.

19. After section 134A of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 134B.

"134B. (1) Except the returning officer, the presiding officer and any police officer on duty and any other person appointed to maintain peace and order at a polling station on duty, at the polling station no person shall on a polling day go armed with arms, as defined in the Arms Act, 1959, of any kind within the neighbourhood of a polling station.

Prohibition of going armed to or near a polling station.

54 of 1959.

(2) If any person contravenes the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

54 of 1959.

(3) Notwithstanding anything contained in the Arms Act, 1959, where a person is convicted of an offence under this section, the arms as defined in the said Act, found in his possession shall be liable to confiscation and the licence granted in relation to such arms shall be deemed to have been revoked under section 17 of that Act.

(4) An offence punishable under sub-section (2) shall be cognizable."

20. In section 135 of the principal Act, in sub-section (1), the word "fraudulently" shall be omitted.

Amend-ment of section 135.

21. Section 135A of the principal Act shall be renumbered as sub-section (1) thereof and,—

Amend-ment of section 135A.

(i) in sub-section (1) as so renumbered,—

(a) for the words "one year but which may extend to three years", the words "three years but which may extend to five years" shall be substituted;

(b) in the *Explanation*,—

(i) for the words "this section", occurring in the opening portion, the words "this sub-section and section 20B" shall be substituted;

(ii) in clause (b), for the words "prevent others from voting", the words "prevent others from free exercise of their right to vote" shall be substituted;

(iii) in clause (c), for the word "threatening", the words "coercing or intimidating or threatening directly or indirectly," shall be substituted;

(ii) after sub-section (1) as so renumbered and the *Explanation* thereto, the following sub-section shall be inserted, namely:—

“(2) An offence punishable under sub-section (1) shall be cognizable.”.

Insertion
of new
sections
135B and
135C.

22. After section 135A of the principal Act, the following sections shall be inserted, namely:—

Grant of
paid
holiday
to
employees
on the
day of
poll,

“135B. (1) Every person employed in any business, trade, industrial undertaking or any other establishment and entitled to vote at an election to the House of the People or the Legislative Assembly of a State shall, on the day of poll, be granted a holiday.

(2) No deduction or abatement of the wage of any such person shall be made on account of a holiday having been granted in accordance with sub-section (1) and if such person is employed on the basis that he would not ordinarily receive wages for such a day he shall nonetheless be paid for such day the wages he would have drawn had not a holiday been granted to him on that day.

(3) If an employer contravenes the provisions of sub-section (1), or sub-section (2), then such employer shall be punishable with fine which may extend to five hundred rupees.

(4) This section shall not apply to any elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged.

Liquor
not to be
sold,
given or
distributed
on
polling
day.

135C. (1) No spirituous, fermented or intoxicating liquors or other substances of a like nature shall be sold, given or distributed at a hotel, eating house, tavern, shop or any other place, public or private, within a polling area on a polling day.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees or with both.

(3) Where a person is convicted of an offence under this section, the spirituous, fermented or intoxicating liquors or other substances of a like nature found in his possession shall be liable to confiscation and the same shall be disposed of in such manner as may be prescribed.”.

Insertion
of new
section
151A.

23. After section 151 of the principal Act, the following section shall be inserted, namely:—

Time
limit for
filling
vacancies
referred
to in
sections
147, 149,
150 and
151.

“151A. Notwithstanding anything contained in section 147, section 149, section 150 and section 151, a bye-election for filling any vacancy referred to in any of the said sections shall be held within a period of six months from the date of the occurrence of the vacancy:

Provided that nothing contained in this section shall apply if the remainder of the term of a member in relation to a vacancy is less than one year.”.

Insertion of new sections 162A and 162AB.

24. After section 162 of the principal Act, the following sections shall be inserted, namely:—

Power of Election Commission to issue instructions.

“162A. The Election Commission shall have the power to issue instructions (by whatever name called) to any officer or authority in connection with the conduct of elections under this Act.

Power of Election Commission to make certain recommendations.

162AB. The Election Commission shall have the power to make recommendations to the appropriate authority to—

(a) refer any matter for investigation to an agency specified by the Commission;

(b) prosecute any person who has committed an electoral offence under this Act; or

(c) appoint any special court for the trial of any offence or offences under this Act.”.

STATEMENT OF OBJECTS AND REASONS

In order to meet the persistent demand for electoral reforms from various quarters and to fulfil the election promise made by the National Front to undertake urgently the electoral reforms, a meeting mainly of the representatives of the political parties in Parliament was convened by the Prime Minister on the 9th January 1990 to discuss the said reforms. On the basis of the broad consensus arrived at the said meeting, the Government constituted a Committee on Electoral Reforms on the 19th January, 1990 consisting of representatives of the political parties and some eminent persons having deep knowledge on the subject. The said Committee submitted a detailed Report on the 4th May, 1990. The Government has considered the Report, and has generally agreed with the recommendations made by the said Committee. The present Bill gives effect to such recommendations. The salient features of the Bill are as under:—

(1) Section 8 of the Representation of the People Act, 1951 is proposed to be amended to provide that a person convicted of an offence punishable under section 2 or section 3 of the Prevention of Insults to National Honour Act, 1971 will be disqualified for a period of six years from the date of such conviction;

(2) It is proposed to insert a new section 20B to enable the Election Commission to nominate Observers to watch the conduct of elections. The Observers will have the power to direct the returning officers to stop the counting of votes or not to declare the result in certain contingencies like booth capturing. It is also proposed to confer the like powers on the Regional Commissioners or supervisory officers of the Election Commission;

(3) It is proposed to omit Part IVA relating to registration of political parties. Upon such omission, the provisions of the Election Symbols (Reservation and Allotment) Order, 1968 shall apply for registration of any association or body of individual citizens of India as a political party under that order;

(4) Section 33 is proposed to be amended to provide that a person shall not be nominated as a candidate for election in more than one constituency of the same class;

(5) Section 34 is proposed to be amended to increase the security deposits in the case of candidates set up by recognised political parties as well as other candidates;

(6) Section 52 is proposed to be substituted to provide *inter alia*, that an election should be countermanded on the death of a candidate set up by a recognised political party only;

(7) Section 58A is being amplified to empower the Election Commission to order repoll also in the entire constituency depending on the nature and seriousness of the cases of booth capturing;

(8) Section 77 is proposed to be so amended as to restore the position obtaining prior to 1974 amendment with reference to keeping a separate and correct account by a candidate or his election agent. It is a common complaint that the limits of election expenses are unrealistic. Accordingly, it is proposed to empower the Election Commission to fix such limits from time to time;

(9) It is proposed to make a beginning with regard to State funding towards elections. For that purpose, new sections 78A and 78B are being inserted to provide that the Government shall supply, free of cost to the candidates of recognised political parties such number of copies of the electoral roll, such quantity of diesel or petrol for such number of vehicles as may be laid down in the rules to be made by the Central Government. The Government will also pay to the candidates of recognised political parties such amount on account of hire charges for certain number of microphones as may be specified in the rules. The State funding can be gradually extended by the Government in consultation with the Election Commission. Under the proposed section 78B, the Election Commission shall supply or cause to be supplied identity slips of electors to all candidates set up by recognised political parties. In cases of State funding and the supply of identity slips to the candidates by the Election Commission, it is proposed that the Central Government may, in consultation with the Election Commission, impose conditions with respect to the reduction of maximum expenditure which may be incurred by any candidate under section 77;

(10) On the suggestions from various quarters including the Election Commission, the code of conduct laid down by the Election Commission is being provided with statutory backing by incorporating new section 124;

(11) It is proposed that the bye-elections be held within a period of six months from the date of the occurrence of the vacancy;

(12) Certain amendments are proposed to ensure peaceful conduct of elections by reducing the influence of money and muscle power by prohibiting the carrying of arms, etc., on the polling day and also by enhancing the punishment in certain cases.

2. The Bill seeks to achieve the aforesaid objects.

DINESH GOSWAMI.

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for the appointment of Observers by the Election Commission during elections. Clause 13 of the Bill seeks to insert new sections 78A and 78B with respect to State funding during elections on certain items. The expenditure on such State funding shall depend upon the candidates of the recognised parties and on the recommendations of the Election Commission. In the case of elections to the State Assemblies, such expenditure may have to be shared by vacancies. State Governments. In view of the above factors, it may not be possible to readily estimate the exact amount which may be required for this purpose. The expenditure with regard to the appointment of Observers would be very nominal and would be met out of the normal budget of the Election Commission.

2. The Bill when enacted will not involve any other recurring or non-recurring expenditure from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill seeks to insert new section 78A in the Representation of the People Act, 1951. Under new section 78A, the Government will supply, free of cost, to the candidates of recognised political parties such number of copies of electoral rolls and such quantity of diesel or petrol for such number of vehicles as may be laid down in the rules to be made by the Central Government. Similarly, the Government will also pay to the candidates of recognised political parties such amount on account of hire charges for such number of microphones as may be laid down in the rules.

2. Clause 22 of the Bill seeks to insert new section 135C in the Act. Under sub-section (3) of that section the spirituous, fermented or intoxicating liquors or other substances of a like nature found in the possession of any person are liable to confiscation and the same will be disposed of in such manner as may be laid down in the rules.

3. Clause 24 of the Bill seeks to insert new section 162A in the Act. Under the new section, the Election Commission is being empowered to issue instructions to any officer or authority in connection with the conduct of elections to Parliament and State Legislatures.

4. The matters in respect of which power is proposed to be given to the Central Government to make rules or to the Election Commission to issue instructions are matters of administrative detail and it is not possible to incorporate them in the Act itself. The delegation of legislative power is, therefore, of a normal character.

VI

BILL NO. XXIX OF 1990

A Bill further to amend the Governors (Emoluments, Allowances and Privileges) Act, 1982.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Governors (Emoluments, Allowances and Privileges) Amendment Act, 1990.

Short
title
and com-
mencement.

(2) It shall be deemed to have come into force on the 1st day of June, 1988.

2. In section 3 of the Governors (Emoluments, Allowances and Privileges) Act, 1982, in the proviso, in clause (a),—

Amend-
ment of
Act 44 of
1982.

(a) in sub-clause (ii), for the word “and”, occurring at the end, the word “or” shall be substituted;

(b) sub-clause (iii) shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Section 3 of the Governors (Emoluments, Allowances and Privileges) Act, 1982 (43 of 1982) provides that there shall be paid to every Governor emoluments at the rate of Rs. 11,000/- per mensem. Clause (a) of the proviso of this section, also provides that if a Governor, at the time of his appointment, is in receipt of a pension (other than disability of wound pension) in respect of any previous service under the Government of India or any of its predecessor Governments or under the Government of a State or any of its predecessor Governments, his emoluments shall be reduced,—

(i) by the amount of that pension; and

(ii) if he has, before such appointment, received in lieu of a portion of the pension due to him in respect of such previous service the commuted value thereof, by the amount of that portion of the pension; and

(iii) if he has, before such appointment, received a retirement gratuity in respect of such previous service, by the pension equivalent of that gratuity.

2. The Government of India in the Ministry of Personnel, Public Grievances and Pensions have issued orders to the effect that the pension equivalent of gratuity may not be deducted while fixing the pay of re-employed pensioners. The Ministry of Finance have also issued orders that the pension equivalent of gratuity will not be taken into account while fixing the initial pay of retired Judges of the High Courts and Supreme Court appointed to on Committees Commission. These orders have been made effective from the 1st June, 1988.

3. The Bill seeks to amend the Governors (Emoluments, Allowances and Privileges) Act, 1982 to allow the benefit of not deducting pension equivalent of gratuity from the emoluments payable to Governors. According to the amendments proposed in the Bill, Governors who had received retirement gratuity in respect of previous service would be benefited.

4. The Bill seeks to achieve the above object.

MUFTI MOHAMMED SAYEED.

SUDARSHAN AGARWAL,
Secretary-General.

